

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
BENJAMIN ANTONIO DIAZ,

Plaintiff,

COMPLAINT

-against-

THE CITY OF NEW YORK and NEW YORK CITY  
POLICE DEPARTMENT,

Index No. \_\_\_\_\_

Defendants.  
-----X

Plaintiffs, BENJAMIN ANTONIO DIAZ, pro se, complaining of the  
defendants herein respectfully allege upon information and belief as follows:

1. Upon information and belief and at all times hereinafter mentioned, the plaintiff BENJAMIN ANTONIO DIAZ is a resident of the Borough of Bronx, City and State of New York.
2. Upon information and belief and at all times hereinafter mentioned, the defendant CITY OF NEW YORK is a municipal corporation duly organized and existing by and under the laws of the State of New York.
3. Upon information and belief and at all times hereinafter mentioned, the defendant NEW YORK CITY POLICE DEPARTMENT is a corporation duly organized and existing by and under the laws of the State of New York.
4. Upon information and belief and at all times hereinafter mentioned, the defendant NEW YORK CITY POLICE DEPARTMENT is a municipal corporation duly organized and existing by and under the laws of the State of New York.

5. Upon information and belief and at all times hereinafter mentioned, the defendant CITY OF NEW YORK hired and/or maintained and/or controlled and/or supervised various police officers and/or guards and/or other security personnel in and about the CITY OF NEW YORK directing and controlling and supervising said policemen.
6. Upon information and belief and at all times hereinafter mentioned and on or about November 17, 2010, the plaintiff BENJAMIN ANTONIO DIAZ was unlawfully and/or false arrested and/or falsely imprisoned and/or falsely detained and/or assault and battery and/or interference with plaintiff's constitutional rights and injuries and damages secondary to physical and emotional harm caused by the CITY OF NEW YORK and/or NEW YORK CITY POLICE DEPARTMENT and its agents, servants and/or employees, in inflicting harm and/or insult and/or injury and/or ridicule and/or embarrassment and/or other injuries of an emotional nature on the claimant, BENJAMIN ANTONIO DIAZ.
7. Upon information and belief and at all times hereinafter mentioned, on or about November 17, 2010 at or about 7:00 a.m. and/or thereafter and/or prior thereto and/or subsequent thereto the defendant NEW YORK POLICE DEPARTMENT acting as an agent, servant and/or employee and/or under the direction and/or control of the THE CITY OF NEW YORK improperly and/or illegally and/or without just or probable cause falsely arrested the plaintiff BENJAMIN ANTONIO DIAZ.

8. Upon information and belief and at all times hereinafter mentioned, on or about November 17, 2010 at or about 7:00 a.m. and/or thereafter and/or prior thereto and/or subsequent thereto the defendant NEW YORK CITY POLICE DEPARTMENT acting as an agent, servant and/or employee and/or under the direction and/or control of the THE CITY OF NEW YORK improperly and/or illegally and/or without just or probable cause falsely imprisoned the plaintiff BENJAMIN ANTONIO DIAZ.
9. Upon information and belief and at all times hereinafter mentioned, on or about November 17, 2010 at or about 7:00 a.m. and/or thereafter and/or prior thereto and/or subsequent thereto the defendant NEW YORK CITY POLICE DEPARTMENT acting as an agent, servant and/or employee and/or under the direction and/or control of the THE CITY OF NEW YORK improperly and/or illegally and/or without just or probable cause falsely detained the plaintiff BENJAMIN ANTONIO DIAZ.
10. Upon information and belief and at all times hereinafter mentioned, on or about November 17, 2010 at or about 7:00 a.m. and/or thereafter and/or prior thereto and/or subsequent thereto the defendant NEW YORK CITY POLICE DEPARTMENT acting as an agent, servant and/or employee and/or under the direction and/or control of the THE CITY OF NEW YORK improperly and/or illegally and/or without just or probable cause assaulted and/or battered and/or harassed and/or unlawfully interfered with the plaintiff BENJAMIN ANTONIO DIAZ who was lawfully and properly upon 260 Brook Avenue, Apt. 20, Bronx, NY 10454 was improperly and

unlawfully arrested and detained and confined and assaulted and handcuffed and imprisoned at the aforementioned apartment and thereafter and was subjected to physical assault and abuse and infliction of physical and emotional harm by the said defendants THE NEW YORK CITY POLICE DEPARTMENT and the CITY OF NEW YORK and the said and/or others acting on behalf of the defendants herein at the aforementioned time and place and thereafter.

11. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT acting on behalf of the CITY OF NEW YORK unlawfully placed the plaintiff under arrest at the aforementioned location subjecting him to public humiliation and causing improper deprivation of his constitutional rights and/or illegally and/or improperly charging and/or claiming BENJAMIN ANTONIO DIAZ was obstructing justice and/or in illegally and improperly placing the plaintiff BENJAMIN ANTONIO DIAZ under arrest for alleged obstruction of justice and improperly and illegally struck the plaintiff and continued to engage in other improper and other unlawful encounter with the plaintiff and others and engaged in pushing and/or shoving matches with others while being in the vicinity of the plaintiff and losing control as a police officer while continuing to push and shove others causing additional injury and anxiety to the plaintiff and failing to follow proper protocol and/or care in exercising restraint while illegally taking the plaintiff into custody.

12. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK, its agents, servants and/or employees acted upon information and belief illegally and outside the scope of their authority and engaged in excessive force and in overreacting under the circumstances in attempting to take the plaintiff into custody all without probable cause.
13. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or its agents, servants and/or employees improperly and/or unlawfully interfered with the plaintiff BENJAMIN ANTONIO DIAZ to use the premises lawfully to go to work and/or carelessly and negligently and with lack of due care and/or intentionally placed the plaintiff in handcuffs and unreasonably and intentionally and negligently struck the plaintiff so as to cause injury and/or pain.
14. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or its agents, servants and/or employees continually engaged in improper behavior and in striking the plaintiff inflicting additional injury upon the plaintiff and continued to engage in ridicule and insult of the plaintiff from the time of the encounter and arrest right up through and including booking and/or thereafter and continued to inflict other injury and/or harm upon the plaintiff during all periods of time while taking the plaintiff into custody until the time of booking and/or thereafter.

15. Upon information and belief and at all times hereinafter mentioned the said defendant THE CITY OF NEW YORK and/or its agents, servants and/or employees and/or THE NEW YORK CITY POLICE DEPARTMENT, its agents, servants and/or employees improperly and/or unlawfully and/or contrary to law subjected the plaintiff to arrest and detention and assault and removed him from 260 Brook Avenue, Apt. 20, Bronx, NY 10454 and illegally transferred him under restraint and detention upon information and belief to the 41<sup>st</sup> Precinct for a substantial period of time confining the plaintiff with other dangerous individuals who were fighting and screaming and threatening the plaintiff and confined the plaintiff improperly and unlawfully and subjected the plaintiff to humiliation and embarrassment, improperly booked and fingerprinted the plaintiff who was under false arrest and kept him under improper arrest and detention while she was fingerprinted and/or photographed and continued to remain under arrest and detention under the improper and unlawful actions of the defendants herein.
16. Upon information and belief and at all times hereinafter mentioned the said defendants improperly and illegally continued with false detention and imprisonment and arrest by improperly and illegally ordering the plaintiff to be taken to Central Booking at or about 161<sup>st</sup> Street.
17. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or its agents, servants and/or employees continued to improperly detain and imprison and subject the plaintiff to illegal and

improper detention inflicting pain and injury upon the plaintiff at the 41<sup>st</sup> Precinct.

18. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or its agents, servants and/or employees acted in concert to illegally and unlawfully and improperly detain and imprison the plaintiff and arrange to have him transferred to Central Booking at 161<sup>st</sup> Street where the plaintiff was booked and continued to illegally handcuff and/or detain and/or take additional photographs and/or confine the plaintiff at Central Booking and subjected him to other insult, ridicule and embarrassment at the hands of others while at Central Booking at 161<sup>st</sup> Street continuing with a false arrest and detaining him and placing him in a cell and restraining him against his will at the direction of the defendant NEW YORK CITY TRANSIT POLICE and/or the other defendants herein and/or other employees of THE NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and further subjected the plaintiff to insults, fear, humiliation and intimidation during the remainder of the day and overnight until the next day at Central Booking at 161<sup>st</sup> Street and confining him with violent individuals who were uncontrollable and/or threatening at said time and place.
19. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or other acting on their behalf engaged in filing upon

information and belief false or unsubstantiated charges of obstruction of justice and/or resisting arrest and/or other frivolous charges against the plaintiff and/or required the plaintiff to appear in Court through a court appointed attorney and the plaintiff did so on or about February 22, 2011 at which time all said charges against the plaintiff BENJAMIN ANTONIO DIAZ were dismissed.

20. Upon information and belief and at all times hereinafter mentioned the aforesaid incident and all of the claims arising as a result of the actions of the defendants herein were not as a result of any actions and/or provocations and/or negligence and/or other conduct on behalf of the plaintiff BENJAMIN ANTONIO DIAZ.
21. Upon information and belief and at all times hereinafter mentioned the said defendant NEW YORK CITY POLICE DEPARTMENT and/or its agents, servants and/or employees including but not limited to THE CITY OF NEW YORK were careless and negligent and caused physical and mental injuries to the plaintiff herein and/or carelessly and negligently and recklessly arrested the plaintiff and/or struck the plaintiff and/or detained the plaintiff and/or handcuffed the plaintiff and/or restrained the plaintiff contrary to law, and either carelessly and/or negligently and/or intentionally deprived him of his constitutional rights and/or overreacted with force under the circumstances and/or failed to exercise reasonable control through its security guard and/or others and/or police officers and/or acted outside of the authority and protocol of THE NEW YORK CITY POLICE



DEPARTMENT and/or THE CITY OF NEW YORK and/or others and/or caused injury and/or damage in assaulting the plaintiff and/or in handcuffing the plaintiff and/or in reacting with excessive force and/or restraining the plaintiff and/or exercising undue force in restraining and handcuffing the plaintiff and/or in carrying out an arrest by NEW YORK CITY POLICE DEPARTMENT and/or under the jurisdiction of THE NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and subjecting the plaintiff to ridicule, insult, embarrassment, scorn and unlawfully charged the plaintiff with obstruction of justice and/or other charges and in restraining the plaintiff and causing the plaintiff to be taken to a local police precinct during which time he continued to be handcuffed and underwent processing including fingerprinting and/or photographing at said location and was confined against his will in a cell and then subsequently transported to Central Booking at or about 161<sup>st</sup> Street where he remained imprisoned and falsely detained against his will overnight through the careless, negligent, reckless and/or intentional acts of the defendant NEW YORK CITY POLICE DEPARTMENT and/or its agents, servants and/or employees and/or THE CITY OF NEW YORK and/or its agents, servants and/or employees.

22. Upon information and belief as a result of the careless and negligent acts on the part of the defendants NEW YORK CITY POLICE DEPARTMENT and/or THE CITY OF NEW YORK and/or the agents, servants and/or employees of all of said defendants caused injury to BENJAMIN

ANTONIO DIAZ including false arrest and/or false imprisonment and/or false detainment and/or assault and/or battery and/or harassment and/or unlawful interference and/or improper detention and/or confinement and/or physical assault and/or abuse and/or infliction of physical and emotional harm and/or unlawfully and improperly taking the plaintiff from 260 Brook Avenue, Apt. 20, Bronx, NY 10454 against his will and unlawfully placing him under arrest and subjecting him to public humiliation and causing improper deprivation of his constitutional rights and/or illegally and/or improperly charging and claiming that the plaintiff BENJAMIN ANTONIO DIAZ was obstructing justice and/or illegally and/or improperly placing the plaintiff under arrest for obstruction of justice and illegally and improperly restraining and handcuffing said plaintiff causing harm and pain upon the plaintiff and carelessly and negligently engaging in other unlawful encounters with others and engaged in other pushing and/or shoving matches while being in the vicinity of the plaintiff and/or permitted and allowed others to be pushed into the plaintiff while attempting to take a citizen into custody and acted upon information and belief illegally and outside the scope of his authority, engaged in excessive force in attempting to restrain and/or detain the plaintiff herein.

23. That upon information and belief and on or about the 14th of February 2011, a Notice of Claim was duly filed within 90 days of the occurrence claimed herein with NEW YORK CITY POLICE DEPARTMENT and

THE CITY OF NEW YORK and/or other appropriate governmental subdivisions.

24. That upon information and belief and on or about the 14th of February 2011, and/or prior thereto Notice of Claims were duly filed within 90 days of the occurrence claimed herein with THE CITY OF NEW YORK and the Controller's Office of THE CITY OF NEW YORK and/or other governmental subdivisions.
25. That upon information and belief the defendant NEW YORK CITY POLICE DEPARTMENT acknowledged receipt of the duly filed Notice of Claim by the plaintiffs BENJAMIN ANTONIO DIAZ.
26. That upon information and belief, the defendant CITY OF NEW YORK acknowledged receipt of the duly filed Notice of Claim by the plaintiffs BENJAMIN ANTONIO DIAZ.
27. That on or about January 11, 2012, the plaintiff BENJAMIN ANTONIO DIAZ duly complied with the General Municipal Law in attending a 50(h) Hearing pursuant to the requests of the defendant NEW YORK CITY POLICE DEPARTMENT and/or CITY OF NEW YORK.
28. That more than 30 days have elapsed and the defendants CITY OF NEW YORK and NEW YORK CITY POLICE DEPARTMENT have failed and neglected to adjust and/or settle these claims.
29. That upon information and belief, this action falls within 1 or more of the exceptions to limited liability set forth in CPLR Article 16.

30. That as a result of the foregoing the plaintiff has been rendered sick, sore, lame and disabled, suffered severe physical pain and emotional anguish, may require medical care and attention and has incurred medical expenses as a result thereof.
31. That the aforementioned occurrence took place without any neglect on the part of the plaintiff contributing thereto.
32. That as a result of the foregoing the plaintiff BENJAMIN ANTONIO DIAZ was permanently impaired, sustained damages including but not limited to physical and mental disability as well as inability to pursue his usual vocation and these injuries together with other profound, serious and protracted injuries as a result of the negligent and careless acts and other unlawful actions of the defendants herein.
33. That as a result of the foregoing, the plaintiff, BENJAMIN ANTONIO DIAZ may be to undergo further medical and/or hospital, and other health care provider treatment related to the actions of the defendants herein.
34. That as a result of the foregoing the plaintiff BENJAMIN ANTONIO DIAZ seeks damages to be recovered herein which exceed the monetary jurisdiction of all courts of record except the Supreme Court of the State of New York.

**AS AND FOR A SECOND CAUSE OF ACTION**

35. Plaintiffs repeat, replead and reiterate each and every allegation as contained in paragraphs designated "1" through "34" of the foregoing Complaint with the same force and effect as if more fully set forth at length herein.
36. That upon information and belief and on or about November 17, 2010, the defendants herein, THE CITY OF NEW YORK and/or NEW YORK CITY POLICE DEPARTMENT and/or their agents, servants and employees without just cause and/or probable cause and/or any cause and/or provocation assaulted and/or pushed and/or caused injury and harm to the plaintiff BENJAMIN ANTONIO DIAZ in and about the City of New York and within the Borough of Bronx and State of New York.
37. That the aforesaid occurrence took place without any negligence or wrongdoing on the part of the plaintiff contributing thereto.
38. That upon information and belief the defendants herein either willfully and/or wantonly and/or intentionally and/or with reckless disregard, assaulted and/or battered and/or attacked the plaintiff without any cause and/or provocation.
39. That the aforementioned occurrence and the acts of the defendants were not made in self-defense and/or in defense of others and/or in pursuit of law.
40. That as a result of the foregoing, the plaintiff BENJAMIN ANTONIO DIAZ rendered sick, sore, lame and disabled, suffered severe physical pain and emotional anguish, and was forced to seek medical attention for the injuries he sustained and was further caused to incur damages and/or will be caused

to incur damages for medical services as well as impairing his ability to pursue his usual vocation and has sustained a permanent and/or protracted and/or serious injury as a result of the defendants' negligence and/or willful and/or wanton and/or intentional and/or reckless acts at the time and place referred to herein.

41. That as a result of the foregoing acts and without any fault on the part of the plaintiff BENJAMIN ANTONIO DIAZ contributing thereto, the plaintiff was caused to sustain serious and/or grievous and/or painful injuries and as a result she was rendered sick, sore, lame and disabled, became incapacitated and confined to bed and/or home and/or was unable to pursue his usual duties and/or vocation, has incurred medical expenses and/or will incur medical expenses and/or upon information and belief will incur additional hospital and/or medical and/or rehabilitative expenses in the future and upon information and belief his injuries are and/or maybe of a permanent, protracted and progressive nature.

42. That as a result of the foregoing the plaintiff BENJAMIN ANTONIO DIAZ seeks damages to be recovered herein which exceed the monetary jurisdiction of all courts of record except the Supreme Court of the State of New York.

**AS AND FOR A THIRD CAUSE OF ACTION**

43. Plaintiffs repeat, replead and reiterate each and every allegation as contained in paragraphs designated "1" through "42" of the foregoing Complaint with the same force and effect as if more fully set forth at length herein.

44. Upon information and belief and on or about November 17, 2010, and after the defendants had carelessly and negligently caused injury and/or harm to the plaintiff herein as hereinbefore recited and upon information and belief after the defendants had assaulted the plaintiff herein, the defendants then improperly and/or wrongfully and/or illegally detained the plaintiff BENJAMIN ANTONIO DIAZ, arrested the plaintiff BENJAMIN ANTONIO DIAZ, continued to carry out improper and/or illegal and/or injurious assaults upon the person of the said BENJAMIN ANTONIO DIAZ.
45. Upon information and belief after the foregoing careless and negligent acts and acts of assault carried out by the defendants herein, the defendants continued to assault and/or improperly detain the plaintiff and subjected him to continuing assaults including improper and inappropriate handcuffing and transported him upon information and belief illegally and improperly and/or in violation of his constitutional rights to the 41<sup>st</sup> Precinct and/or other place of detention.
46. Upon information and belief, the defendants herein illegally and/or improperly detained and/or imprisoned the plaintiff BENJAMIN ANTONIO DIAZ, overcharging the plaintiff herein with various charges and offenses.
47. Upon information and belief the defendants herein maliciously and/or willfully and/or wantonly and/or without authority and/or color of law charged the plaintiff BENJAMIN ANTONIO DIAZ with various criminal activities and/or offenses which had no foundation in fact and/or in law and

continued to maliciously and willfully and wantonly arrest and/or detain and/or imprison the plaintiff BENJAMIN ANTONIO DIAZ and hold him for said alleged criminal offenses including obstruction of justice and/or other criminal activity and continued to willfully and/or maliciously and/or wantonly and/or negligently detained and imprisoned the plaintiff and thereafter at the 41<sup>st</sup> Precinct and thereafter at Central Booking in the Borough of Bronx, City and State of New York, all without authority and/or color of law in violation of his constitutional rights.

48. Upon information and belief the defendants herein continued to detain and imprison and charge the plaintiff with various criminal activities without color of law and/or authority and caused the plaintiff BENJAMIN ANTONIO DIAZ to appear in court with counsel and detained and imprisoned the plaintiff overnight on or about November 17, 2011 and upon information and belief all of said actions taken on the part of the defendants were without any just and/or probable cause and/or were contrary to law and/or without color of law and continued to present said charges until about February 22, 2011 at which time all charges upon information and belief were either withdrawn by these defendants and/or dismissed by the criminal court in the Borough of the Bronx, City and State of New York releasing and discharging the plaintiff BENJAMIN ANTONIO DIAZ from any and all alleged crimes and/or offenses alleged to have been committed by him at the instance of the defendants herein.



49. Upon information and belief all of the aforementioned actions and/or conduct on the part of the defendants herein were illegal, were without authority or color of law, were carelessly and negligently pursued and/or allowed to be pursued and were carried out intentionally and/or willfully and/or wantonly and/or maliciously and/or negligently, all in violation of the rights of the plaintiff BENJAMIN ANTONIO DIAZ and caused physical and emotional injury to the plaintiff, caused illegal detention and imprisonment of the plaintiff, caused unwarranted and illegal restraint of the plaintiff all without his authority and/or color of law and were carried out in a punitive and vindictive manner as a result of which the plaintiff is entitled to punitive damages herein.
50. Upon information and belief the various careless and negligent acts and/or acts of assault and/or improper detention and/or arrest and/or handcuffing and/or booking were improper and/or illegal and occurred within the Borough of the Bronx, City and State of New York.
51. Upon information and belief, the defendants herein carelessly and negligently injured the plaintiff in the Borough of the Bronx, carelessly and negligently assaulted the plaintiff in the Borough of the Bronx, carelessly and negligently carried out illegal and/or improper detention and/or arrest within the Borough of the Bronx, City and State of New York, carried out an assault and/or battery within the Borough of the Bronx, City and State of New York and thereafter continued said illegal and improper acts and committed said acts either at the scene of the occurrence at 260 Brook

Avenue, Apt. 20, in the Borough of the Bronx, City and State of New York and/or said acts continued at the 41<sup>st</sup> Precinct and/or continued in part at the Central Booking at 161<sup>st</sup> Street in the Borough of Bronx, City and State of New York.

52. Upon information and belief and on or about November 17, 2010, the plaintiff BENJAMIN ANTONIO DIAZ was placed under arrest by the defendant CITY OF NEW YORK and/or NEW YORK CITY POLICE DEPARTMENT and/or various agents and/or servants and/or employees under their direction and control including the defendants named herein and that said arrest took place in the Borough of Bronx, City and State of New York as well as subsequent detainment and imprisonment.
53. Upon information and belief and at all times hereinafter mentioned, the plaintiff BENJAMIN ANTONIO DIAZ was imprisoned and/or detained and/or restrained at the aforementioned 260 Brook Avenue, Apt. 20, Bronx, NY 10454 and was illegally detained and/or restrained in being transported to the 41<sup>st</sup> Precinct and was further detained and/or restrained at Central Booking and was held overnight at the 161<sup>st</sup> Street facility and/or other facility and was improperly detained, imprisoned and restrained at all times until he was discharged.
54. Upon information and belief, the defendants herein carelessly and negligently failed to promptly and timely arraign the plaintiff pursuant to applicable provisions of the Criminal Procedure Laws of the State of New York.

55. Upon information and belief, the defendants herein and/or their agents, servants and/or employees illegally detained and/or imprisoned the plaintiff on November 17, 2010 and/or thereafter.
56. Upon information and belief, and at all times hereinafter mentioned, and on or about November 17, 2010 and thereafter said arrest and/or imprisonment and/or detention and/or taking into custody was done without probable and/or reasonable cause, with bad faith, with malice and/or was carried out in a negligent and/or careless manner.
57. Upon information and belief and at all times hereinafter mentioned and on or after November 17, 2010 the plaintiff was confined to a precinct and/or facility within the Borough of the Bronx and/or at Central Booking by the defendants, their agents, servants and/or employees.
58. Upon information and belief and at all times hereinafter mentioned said arrest, detainment, imprisonment and confinement was unlawful and without color of law.
59. Upon information and belief and at all times hereinafter mentioned the plaintiff BENJAMIN ANTONIO DIAZ was illegally, improperly and unlawfully detained and/or imprisoned and/or assaulted and/or battered without his consent and against his will and in violation of his constitutional rights by reason of willful, wanton, malicious and reckless acts of the defendants herein.

60. Upon information and belief said acts were carried out willfully and/or wantonly and/or maliciously and were intended to hurt the plaintiff as a result of which he is entitled to punitive damages.
61. Upon information and belief and at all times hereinafter mentioned throughout the period of time of November 17, 2010 – November 18, 2010 the plaintiff BENJAMIN ANTONIO DIAZ was assaulted and/or battered and/or abused and illegally detained and imprisoned by the defendants, their agents, servants and/or employees.
62. Upon information and belief and at all times hereinafter mentioned and on or about November 17, 2010 and thereafter, due to the carelessness, negligence, willful, wanton, reckless and malicious conduct of the defendants herein, the plaintiff was caused to sustain serious and/or grievous bodily harm, both physically and emotionally as a result of which he has been required to obtain medical aide.
63. Upon information and belief and at all times hereinafter mentioned, the defendants herein, their agents and/or servants and/or employees and/or those under their supervision and/or control were careless and negligent in arresting the plaintiff, in detaining the plaintiff and/or deliberately and/or willfully and/or recklessly and/or wantonly and/or maliciously violated the constitutional rights of the plaintiff and/or negligently and/or maliciously imprisoned the plaintiff, negligently and/or intentionally prepared charges of obstruction of justice and/or other charges against the plaintiff without there being proper cause therefore and in falsely arresting, detaining and

imprisoning the plaintiff as stated herein and the defendants were further careless and negligent and committed other intentional and/or malicious acts herein.

64. That as a result of the foregoing the plaintiff BENJAMIN ANTONIO DIAZ seeks damages to be recovered herein which exceed the monetary jurisdiction of all courts of record except the Supreme Court of the State of New York.

**AS AND FOR A FOURTH CAUSE OF ACTION**

65. Plaintiffs repeat, replead and reiterate each and every allegation as contained in paragraphs designated "1" through "64" of the foregoing Complaint with the same force and effect as if more fully set forth at length herein.
66. That as a result of the aforesaid, the defendants are liable to the plaintiff for the false arrest and imprisonment of the plaintiff and the conscious pain and suffering caused thereby in an amount which exceeds the monetary jurisdiction of all courts of record except the Supreme Court of the State of New York.

**AS AND FOR A FIFTH CAUSE OF ACTION**

67. Plaintiffs repeat, replead and reiterate each and every allegation as contained in paragraphs designated "1" through "66" of the foregoing Complaint with the same force and effect as if more fully set forth at length herein.
68. The plaintiff also claims punitive damages as a result of the knowing, intentional, reckless, willful and conscious disregard of the plaintiff by the defendants herein all carried out improperly and without just cause and/or

provocation and/or color of law in causing injury and/or harm to the plaintiff and damaging plaintiff in an amount which exceeds the monetary jurisdiction of all courts of record except the Supreme Court of the State of New York.

WHEREFORE, plaintiffs BENJAMIN ANTONIO DIAZ demands judgment on the First, Second, Third, Fourth, and Fifth Causes of Action in an amount of damages as to each cause of action all of which exceed the jurisdictional limits of all courts of record except the Supreme Court of the State of New York together with interest, costs and disbursements of said action and for such other, further and different relief as to this Court may seem just and proper.

Dated: Valhalla, New York  
February 13, 2012

Yours, etc.,

  
BENJAMIN ANTONIO DIAZ

Plaintiff Pro Se  
260 Brook Avenue, #20  
Bronx, New York 10454  
(646) 238-3502